



# Potential Comments on Proposed ACA Rules on Eligibility and Enrollment

Exchange Eligibility and Employer Standards (CCIO)

Medicaid Eligibility (CMS)

Health Insurance Premium Tax Credit (IRS)

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# Key Topics on Which Comments Are Solicited

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## **Strategies for Establishing Eligibility**

- What role should the federal government play? Should it take over responsibility for advance premium tax credit determinations?
- How should Exchanges evaluate access to qualified employer-based coverage?
  - Standard form for employers?
  - Create a centralized database?
- Best way to help people navigate the complexity created by differences in Medicaid/CHIP versus tax credit rules?

# Key Topics on Which Comments Are Solicited

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## **Minimizing Repayment Obligations for Advance Premium Tax Credits**

- In general, what tools do Exchanges need to help minimize repayment obligations?
- How can Exchanges help people to accurately project their income and household composition for the year ahead?
- Mandate that Exchanges remind people to report changes in circumstances?
- Mandate that Exchanges actively look in databases to see if someone's circumstances are changing? Act on such changes?

# Key Topics on Which Comments Are Solicited

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## **Redetermination Procedures**

- Allow Exchanges to let people opt out of automatic eligibility redeterminations?
- Mandate or allow Exchanges to require reporting of changes only if they are of a certain magnitude (e.g., 5%, 10% or greater change in income)?
- Allow mid-year redeterminations to satisfy the annual redetermination requirement?

# Process for Responding to Request for Comments

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- Comments due October 31, 2011
- Not obligated to respond to all of the issues on which comments are requested
- Important to identify provisions that the Exchange supports, as well as to identify recommendations for change
- Can prepare separate letters for each of the 3 entities proposing one of the rules or a single letter (with copies to relevant agencies)

# Provisions to Consider Supporting

*(based on 9/19/2011 discussion)*

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- In general, express support for the effort to create modernized eligibility and enrollment systems
  - Unified eligibility and enrollment system
  - Allowing for on-line submission of applications
  - Use of electronic verification to maximum extent feasible
  - Extra assistance for people who need more help, including those with limited English proficiency and disabilities
  - Allowing for temporary enrollment of eligible individuals in coverage if issues arise with a determination
- BUT, note urgent need for more timely federal guidance and support
  - Details on the federal data HUB and other federal services
  - Model application being developed by HHS
  - Resources to support Navigators
- Additional provisions to support???

# Provisions the Exchange May Want Added/Changed

*(based on discussion at 9/19/2011 meeting)*

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- Provide additional tools to minimize tax credit repayment obligations
  - State option to allow a “spread out” repayment of excess tax credits
  - State option to decide whether to use last year’s tax data to set tax credits
- Provide more guidance on how to assess employer-based coverage
  - Proposed Exchange rule requires the MD Exchange to evaluate access to qualified employer-based coverage, but fails to provide details on how to do so
- Provide more guidance and audit protections on “reasonable compatibility” standard
  - Both the proposed Exchange and Medicaid rule would require the MD Exchange to determine when electronic data are “reasonable compatibility” with someone’s self-attested circumstances. But, neither proposed rule offers any details, nor do they provide assurance that federal auditors will defer to Maryland’s interpretation of the phrase.

# Areas Where Changes May be Needed

*(based on discussion at 9/19/2011 meeting)*

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- Rely on a family-based coverage test when evaluating a family's access to affordable employer-based coverage
  - The proposed IRS rule excludes families from tax credits if an employed family member can purchase single-only coverage for less than 9.5% of family income
  - Under the proposed rule, some families will be barred from tax credits even if they lack access to affordable employer-based coverage
- Clarify that Express Lane eligibility remains a state option
  - Proposed Medicaid rule does not explicitly address the future of the Express Lane eligibility option
- Additional comments???